

### **REMARKS**

Reconsideration and the timely allowance of the pending claims, in view of the foregoing amendment and following remarks, are respectfully requested.

By this Amendment, claims 1-5, 7, 15-16, and 21-22 has been amended to provide a clearer presentation of the claimed subject matter. Claim 6 has been cancelled, without prejudice or disclaimer. Ample support for the amendments can be found in the application-as-filed. Applicant submits that no new matter has been introduced. As such, claims 1-5, 7, 15-16, and 21-22 are presented for examination of which claims 1, 15, and 21 are independent.

### **INTERVIEW SUMMARY**

Supervisory Patent Examiner Kevin Sirmons and Patent Examiner Shefali D. Patel are thanked for the courtesies extended to Applicant's representative during a telephonic interview conducted on September 22, 2008. A summary of the substance of the Interview was provided by Examiner Patel. See 09/25/08 Interview Summary. Without agreeing to the Examiner's interpretation or that an amendment is necessary to distinguish over the references relied upon by the Examiner, Applicant has amended the claims *solely* in an effort to expedite prosecution.

### **DRAWINGS**

The Examiner objected to the drawings because FIG. 1 should be designated as "Prior Art". A replacement sheet of drawing designating FIG. 1 as "Prior Art" is attached with this paper to replace the sheet depicting FIG. 1 that was originally filed with the above-identified application. Accordingly, withdrawal of the objections to the drawings is earnestly solicited.

#### REJECTIONS UNDER 35 U.S.C. § 112

The Examiner rejected claims 1 and 15, under 35 U.S.C. §112, second paragraph, as failing to define the invention in the manner required by 35 U.S.C. §112, second paragraph. Amendments to claims 1 and 15 render this rejection moot. Accordingly, withdrawal of the rejection of claims 1 and 15 is earnestly solicited.

#### REJECTIONS UNDER 35 U.S.C. § 102

i) The Examiner rejected claims 1, 15, 16, 21, and 22, under 35 U.S.C. §102(b), as allegedly being anticipated by Larkin (U.S. Patent No.5,961,497). Applicant respectfully traverses these rejections because Larkin fails to disclose all the elements of Applicant's pending claims.

As indicated above, independent claim 1 positively recites, *inter alia*,

a circulating member provided in the channel tube unit below the septum, the circulating member comprising:

***a plate portion arranged to change direction of flow of a first fluid injected from the inserted tube member or a second fluid flowing from the other end of the channel tube unit; and***

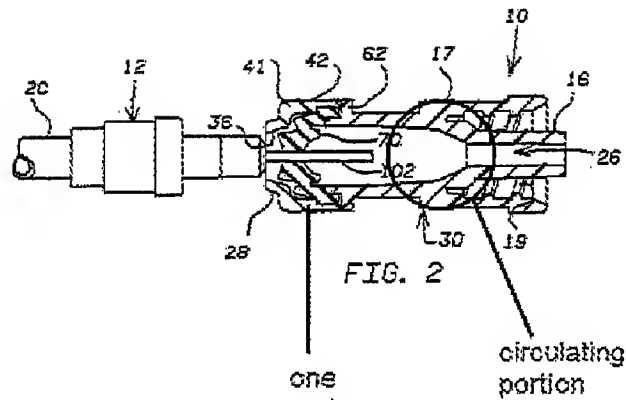
***an edge portion that protrudes upwardly towards the septum from a periphery of the plate portion and is arranged along an inner wall of the channel tube unit,***

wherein the circulating member is configured to:

***circulate the first fluid injected from the inserted tube member towards the septum side and then guide the first fluid to the other end of the channel tube unit, and/or circulate the second fluid flowing from the other end of the channel tube unit towards the septum side and then guide the second fluid to a top portion of the inserted tube member.***

With this said, Applicant respectfully submits that the Larkin citations relied upon by the Examiner do little in the way of establishing anticipation.

The Examiner alleges that the "circled portion of Larkin's FIG. 2" ( as shown below) is analogous to Applicant's circulating member. (See, page 4 of Office Action).



Larkin (Figure 2)

Assuming arguendo, that this assumption is correct (which Applicant does not concede), the “circled portion of Larkin’s FIG. 2” fails to comprise the claimed plate portion and claimed edge portion. Moreover, assuming arguendo, that Larkin’s seal 70 is analogous to Applicant’s septum (though Applicant does not concede this), Larkin fails to disclose that the “circled portion of Larkin’s FIG. 2” circulates the first fluid towards the seal side and then guides the first fluid to the other end of the connector 10 (alleged channel tube unit) and/or circulates the second fluid towards the seal side and then guides the second fluid to a top portion of the cannula assembly (alleged inserted tube member).

Thus, for at least these reasons, Applicant submits that Larkin fails to disclose the claimed combination of elements recited by amended claim 1. As such, claim 1 is clearly patentable. Also, claims 15 and 21 recite similar features as claim 1. Therefore, the arguments presented for claim 1 above apply to claims 15 and 21 as well. And, because claims 16 and 22 depend from claims 15 and 21, either directly or indirectly, claims 16 and 22 are patentable at least by virtue of dependency as well as for their additional recitations. Accordingly, the immediate withdrawal of the rejection of claims 1, 15, 16, 21, and 22 is respectfully requested.

ii) The Examiner rejected claims 1, 15, 16, 21, and 22, under 35 U.S.C. §102(b), as allegedly being anticipated by Garrett (U.S. Patent No.4,197,848). Applicant respectfully traverses these rejections because Garrett fails to disclose all the elements of Applicant's pending claims.

As indicated above, independent claim 1 positively recites, *inter alia*,

a circulating member provided in the channel tube unit below the septum, the circulating member comprising:

***a plate portion arranged to change direction of flow of a first fluid injected from the inserted tube member or a second fluid flowing from the other end of the channel tube unit; and***

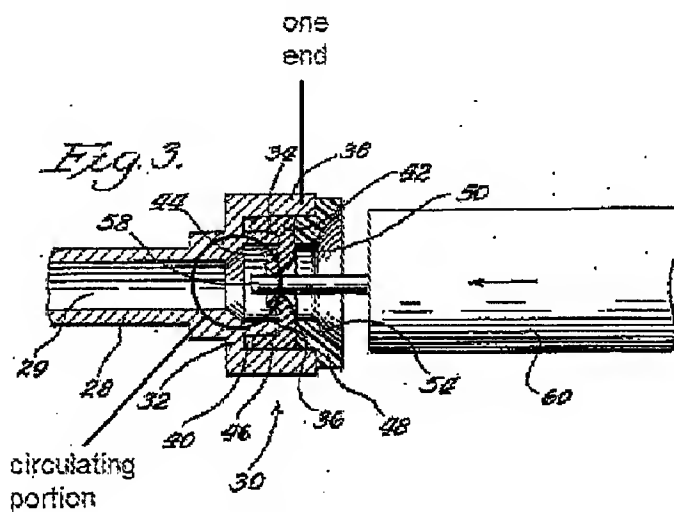
***an edge portion that protrudes upwardly towards the septum from a periphery of the plate portion and is arranged along an inner wall of the channel tube unit,***

wherein the circulating member is configured to:

***circulate the first fluid injected from the inserted tube member towards the septum side and then guide the first fluid to the other end of the channel tube unit, and/or circulate the second fluid flowing from the other end of the channel tube unit towards the septum side and then guide the second fluid to a top portion of the inserted tube member.***

With this said, Applicant respectfully submits that the Garrett citations relied upon by the Examiner do little in the way of establishing anticipation.

The Examiner alleges that the "circled portion of Garrett's FIG. 3" ( as shown below) is analogous to Applicant's circulating member. (See, page 5 of Office Action).



Garrett et al (Figure 3)

Assuming arguendo, that this assumption is correct (which Applicant does not concede), the “circled portion of Garrett’s FIG. 3” fails to comprise the claimed plate portion and claimed edge portion. Moreover, assuming arguendo, that Garrett’s membrane 42 is analogous to Applicant’s septum (though Applicant does not concede this), Garrett fails to disclose that the “circled portion of Garrett’s FIG. 3” circulates the first fluid towards the membrane side and then guides the first fluid to the other end of the closed irrigation site 30 (alleged channel tube unit) and/or circulates the second fluid towards the membrane side and then guides the second fluid to a top portion of the syringe 60 (alleged inserted tube member).

Thus, for at least these reasons, Applicant submits that Garrett fails to disclose the claimed combination of elements recited by amended claim 1. As such, claim 1 is clearly patentable. Also, claims 15 and 21 recite similar features as claim 1. Therefore, the arguments presented for claim 1 above apply to claims 15 and 21 as well. And, because claims 16 and 22 depend from claims 15 and 21, either directly or indirectly, claims 16 and 22 are patentable at least by virtue of dependency as well as for their additional recitations. Accordingly, the immediate withdrawal of the rejection of claims 1, 15, 16, 21, and 22 is respectfully requested.

#### **REJECTIONS UNDER 35 U.S.C. § 103**

- i) The Examiner rejected claim 2, under 35 U.S.C. §103(a), as allegedly being unpatentable over Larkin in view of Herlitze (U.S. Patent No.4,601,703).
- ii) The Examiner rejected claim 2, under 35 U.S.C. §103(a), as allegedly being unpatentable over Garrett in view of Herlitze (U.S. Patent No.4,601,703).
- iii) The Examiner rejected claims 2-5, under 35 U.S.C. §103(a), as allegedly being unpatentable over Larkin in view of Wiltse (U.S. Patent No.3,880,401).
- iv) The Examiner rejected claims 2-5, under 35 U.S.C. §103(a), as allegedly being unpatentable over Garrett in view of Wiltse (U.S. Patent No.3,880,401).
- v) The Examiner rejected claims 2, 6, and 7, under 35 U.S.C. §103(a), as allegedly being unpatentable over Larkin in view of Manske (U.S. Patent No.4,141,379).
- vi) The Examiner rejected claims 2, 6, and 7, under 35 U.S.C. §103(a), as allegedly being unpatentable over Garrett in view of Manske (U.S. Patent No.4,141,379).

Applicant respectfully traverses these rejections because Larkin/Garrett and Herlitze, Wiltse, or Manske, either alone or in combination with one another, fail to disclose all the elements of Applicant's pending claims.

Herlitze, Wiltse, and Manske fail to cure the deficiencies of Larkin and Garrett identified above. Furthermore, because claims 2-5 and 7 depend from claim 1, either directly or indirectly, claims 2-5 and 7 are patentable at least by virtue of dependency as well as for their additional recitations. Thus, for at least these reasons the immediate withdrawal of the rejections of claims 2-5 and 7 is respectfully requested.

CONCLUSION

All matters having been addressed and in view of the foregoing, Applicant respectfully requests the entry of this Amendment, the Examiner's reconsideration of this application, and the immediate allowance of all pending claims.

Applicant's representative remains ready to assist the Examiner in any way to facilitate and expedite the prosecution of this matter. If any point remains in issue which the Examiner feels may be best resolved through a personal or telephone interview, please contact the undersigned at the telephone number listed below.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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